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**TRANSMITTAL  
FORM**

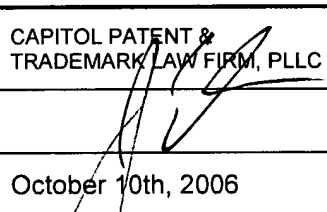
(to be used for all correspondence after initial filing)

Application Number	10/036,972
Filing Date	October 19, 2001
Inventor(s)	Arnab DAS et al.
Group Art Unit	2616
Examiner Name	Mohammad Sajid Adhami
Attorney Docket Number	129250-002148/US

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims)  <input checked="" type="checkbox"/> Appeal Communication to Group (Notice of Appeal, <u>Appeal Brief</u> , (corrected) <u>Reply Brief</u> )  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input type="checkbox"/> Other Enclosure(s) (please identify below):		
<table border="1" style="width: 100%;"> <tr> <td style="width: 20%;">Remarks</td> <td></td> </tr> </table>			Remarks	
Remarks				

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC	Attorney Name John E. Curtin	Reg. No. 37,602
Signature			
Date	October 10th, 2006		



AF  
JFW

**IN THE U.S. PATENT AND TRADEMARK OFFICE**

Appellants: Arnab DAS et al.  
Application No.: 10/036,927  
Art Unit: 2616  
Filed: October 19, 2001  
Examiner: Mohammad Sajid Adhami  
For: AN ADAPTIVE HYBRID RETRANSMISSION  
METHOD FOR WIRELESS COMMUNICATIONS  
Attorney Docket No.: 129250-002148/US

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**APPELLANTS' REPLY TO THE EXAMINER'S ANSWER ON APPEAL**

**MAIL STOP APPEAL BRIEF - PATENTS**

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

October 10, 2006

Sir/Madam:

In response to the Examiner's Answer mailed August 10, 2006 ("Answer") the Appellants submit the following Reply Brief.



**APPELLANTS' REPLY BRIEF ON APPEAL**

**A. ARGUMENTS:**

**(i) The claimed retransmissions are not inherently disclosed in Kwan**

In the Appellants' opening brief the Appellants pointed out that Kwan is directed to a transmission scheme and does not disclose or suggest the claimed retransmission of a previous transmission within a fixed length frame using a plurality of codes, where the number of codes used in the retransmission may vary based on the condition of a communication channel. In the Answer the Examiner implicitly, if not explicitly, acknowledges that Kwan does not disclose the claimed retransmissions. The Examiner states:

"Therefore, it is *inherent* in the transmission method of Kwan that retransmissions will also vary the number of codes based on a condition of a communication channel." (italics added)

Said another way, even though Kwan does not disclose the claimed retransmissions the Examiner nonetheless feels they are inherent from Kwan's transmission scheme. This is incorrect.

The disclosure of a particular transmission scheme does not inherently dictate or imply that retransmissions must use the same scheme. Kwan does not say its retransmissions must use the same scheme as its transmissions; rather, the Examiner appears to make this leap based on his own opinion. Kwan barely mentions retransmissions at all except in passing. When retransmissions are mentioned, there is no discussion or implication that the same method used in transmissions must be used in retransmissions. In fact, the opposite is the case; retransmissions many times are sent using a different scheme than original transmissions.

One example of such a circumstance is set forth in the present specification on page 5, lines 17 through 30 where original transmissions are sent using QPSK while retransmissions are sent using QAM.

**(ii). Kwan does not disclose or suggest the use of a different number of codes in a retransmission**

Claim 6 modifies independent claim 1 such that the number of codes used in a subsequent retransmission differs from the number of codes used in the original transmission. Page 5 of the specification again provides an example of this where original QPSK transmissions are sent using 6 codes, but only 3 codes are used in the QAM retransmissions.

With respect to claim 6, in the Answer the Examiner states:

“Kwan discloses a method using different [sic] number of codes for a first transmission and a subsequent transmission.”

While Kwan may always use the same transmission scheme, this does not dictate the type of retransmission scheme that must or may be used to one skilled in the art. Further, the Appellants' respectfully submit that one skilled in the art would not equate a transmission with a retransmission as the Examiner has apparently done.

**B. CONCLUSION:**

Appellants respectfully request that the members of the Board reverse the decision of the Examiner and allow claims 1-20.

APPELLANTS' REPLY BRIEF ON APPEAL

U.S. Application No.: 10/036,972

Atty. Docket: 129250-002148/US

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By: 

John E. Curtin, Reg. No. 37,602

P.O. Box 1995

Vienna, VA 22183

(703)266-3330